

In the United States Court of Claims

No. 47900

(Decided October 7, 1959)

THE TLINGIT AND HAIDA INDIANS OF ALASKA v. THE UNITED STATES

Mr. I. S. Weissbrodt for the plaintiffs. *Mr. David Cobb, Mr. Abe W. Weissbrodt, Mrs. Rella R. Schwartz, Mr. Jay H. Hoag, and Mr. Clarence G. Lindquist* were on the briefs.

Mr. Ralph A. Barney, with whom was *Mr. Assistant Attorney General Perry W. Morton*, for the defendant.

Mr. James Craig Peacock for the intervenors.

OPINION

LARAMORE, *Judge*, delivered the opinion of the court:

This is a suit against the United States by the Tlingit and Haida Indians of Alaska.¹ The jurisdictional act² under which this suit is brought is set forth in full in finding 1. The act authorizes the court to "hear, examine, adjudicate, and enter judgment upon any and all claims which said Indians may have, or claim to have, against the United States." Section 1 of the act defines the Tlingit and Haida Indians of Alaska as "all those Indians of the whole or mixed blood of the Tlingit and Haida Tribes who are residing in Russian America, now called the Territory of Alaska, in the region known and described as southeastern Alaska, lying east of the one hundred and forty-first meridian." Section 2 of the act describes and defines the claims which are authorized to be submitted to the court for "settle-

¹ On April 8, 1954, Harry Douglas and 18 others described in their motion papers as chiefs and leaders of various clans of Tlingit Indians were permitted to intervene as parties plaintiff.

² Act of June 19, 1935, 49 Stat. 388, Ch. 275. Finding 1.

In the same manner, the Haida Indians of Alaska likewise formed a homogeneous group. However, the Tlingits have always been closely associated with the Haidas, with whom they had close trade relations, their modes of life, customs, and habits closely resembling each other. The principal differences between the two groups are the language and the almost exclusive degree of dependence of the Haidas for their support on the coast, since they gave the interior of their islands little attention. Certain similarities between the two languages have caused some anthropologists to conclude that the Tlingit and the Haida are remote branches of the same stock.

The Tlingit Indians as of 1867 had no chief or other political body to govern them as a group. The Russians on at least two occasions had appointed a head chief for all the Tlingit, but these appointments had not changed the established customs of the Indians, which featured many highly developed rights, such as rights to authority, possessions, and prestige. None of these rights encompassed any authority over the entire Tlingit people. However, any infringement of these rights that did exist in their culture demanded retribution in equal measure. From earliest times, the Tlingit Indians were noted for a strict application of the law of an eye for an eye and for the feuds that were waged among them. Accordingly, the Tlingit Indians as a whole, though occupying one contiguous stretch of coast on the mainland and the adjoining islands, and though unified by common customs, family ties, trade, ceremonials, and the consciousness of their oneness, nevertheless had not established by 1867 any political body to govern the entire Tlingit people. In like manner, the Haida Indians had no political chief or body as of 1867.

22. The neighbors of the Tlingit and Haida Indians were the Athabaskan Indians on the east, inland from the coast, and the Tsimshian Indians on the southeast, in the region about Portland Canal. On the south, separated by Dixon Entrance, were the Queen Charlotte Island Haidas, constituting a different group of Haidas from those involved in this suit, who principally inhabited Prince of Wales and its adjoining islands. The culture of the Athabaskan Indians

was not that of the northwest coast Indians. The Athabaskans were an inland people and were considered by the Tlingit, who dominated them in trade dealings, as an inferior people. In most areas the Athabaskans were effectively separated from the Tlingit by the coastal mountain range which generally formed a practically impassable physical barrier. The Tsimshians, on the other hand, were northwest coast Indians with a culture similar to that of the Tlingit and Haida. The Tlingit and Haida Indians were the only Indians who inhabited, used, and occupied their portions of southeast Alaska.

The Tlingit and Haida Social Structure—The Tribes.

23. The term "tribe" is frequently employed to describe the entire Tlingit people, as well as the Haidas as a whole. It is also used in connection with their various divisions and subdivisions, as hereinafter described. As so variously applied, it has been used loosely and in an inexact sense. There were no political divisions of these Indians to which the term "tribe" can be technically applied. However, in an anthropological sense, the term has been most frequently applied to specific groups of these Indians who were located in certain areas of southeast Alaska. The term, as applied to these Indians, has geographical, rather than any political or organizational significance. The tribes, called "kons" by the Indians themselves (the word meaning "people"), were named after the river, bay, or island upon which their villages were situated. For instance, the Indians who settled or had their villages in the Sitka area were in the earliest times, and ever since have always been, referred to as Indians of the Sitka "tribe" or "Sitka-kon." Similarly, the Indians in the Yakutat area were referred to as the Yakutat "tribe," or "Yakutat-kon." It is only in this geographical sense that the term "tribe" is generally used by anthropologists and in these findings.

24. The social structure and various divisions and subdivisions of the Tlingit and Haida Indians are as follows:

As stated in finding 21, neither the Tlingit nor Haida, as such, was a political organization. Technically, these terms refer only to two separate, native languages, the Indians speaking these separate languages having come to be re-

ferred to as "Tlingit" or "Haida" Indians. The word "Tlingit" means "man" in their language.

All of these Indians were divided into two phratries or moieties. Among the Tlingit, one was called Wolf and the other Raven, and among the Haida, one was called Eagle and the other likewise Raven. Similarly, neither moiety had any social or political organization.

Each moiety was in turn divided into a number of clans, membership in which descended through the mother. Each clan had its own distinctive name, traditions, and crests. Marriage within the clan or moiety was forbidden. Originally there were approximately 55 of these clans, which, again, had no social or political structure. Indians of these various clans, however, settled throughout the Tlingit and Haida territory, and the division of a larger clan which settled at a certain site or permanent village became known as a local clan. Thus, a clan was often distributed or divided among several villages, some of the larger clans being widely scattered throughout southeastern Alaska. However, other clans were wholly localized in a single community.

Since no one in the clan could marry anyone else from that clan, a local clan had to associate with another local clan from the opposite moiety. Thus the two local clans from the opposite moieties settling in a village would constitute a "tribe." Usually, however, several local clans would settle in a village.

The local clan divisions in a village were made up of house groups. A village consisted of a number of large houses of the local clans, each house sheltering a number of families. Some houses were large enough to shelter a dozen families.

Each house had a local clan designation. Its nucleus was the men of that clan, usually related to each other, such as brothers. The house had its highest ranking man, or chief, usually the eldest member of the house. Also, each local clan in the village had its highest ranking house, the chief of which was recognized as the highest ranking local clan chief. Thus, it was the local clan subdivision and the house group of families which had any semblance of social or political organization.

As will be hereinafter more fully described, the local clans in the village owned or claimed, in accordance with the Indian manner, large areas adjacent to the village. In some of these areas so owned or claimed, there were two or more villages, sometimes not distantly separated, in which case the Indians of all these villages, comprising all their houses and local clans, were known as a "tribe." While there was no head of a tribe as such, nevertheless there was a sense of tribal unity and a community feeling of belonging to a particular geographical unit, which was bound together by ties of intermarriage, as well as ceremonial relationships.

25. In 1867, the names of the Tlingit and Haida tribes, and the names of their principal winter villages, were as follows:

<i>Name of Tribe</i>	<i>Name of Villages as of 1867</i>
TLINGITS	
1. Yakutat	Yakutat
2. Chilkat-Chilkoot (sometimes referred to merely as the Chilkats, the Chilkoots being considered as a subdivision)	1. Klukwan 2. Kalkwalt 3. Chilkoot 4. Yandestuka 5. Diea
3. Huna	1. Huna 2. Tuxugu
4. Auk	Aynskultu
5. Taku-Sumдум (sometimes referred to merely as the Takus, the Sumdums being considered as a subdivision)	1. Taku 2. Sumдум
6. Hutsnuwu (sometimes referred to as the "Angoons")	1. Basket Bay 2. Angoon 3. Killisnoo 4. Neltushkun
7. Sitka	Sitka
8. Kake	1. Kake Village 2. Kake
9. Kuiu	Kuiu
10. Stikine	Wrangell
11. Henya	1. Shakan 2. Tuxekon 3. Klawak
12. Sanya (sometimes referred to as the "Cape Fox" Indians, as well as the "Saxman" Indians)	1. Yes Bay 2. Cape Fox 3. Loring

Name of Tribe

Name of Villages as of 1867

TLINGITS—Continued

13. Tongass (sometimes the Sanyas and the Tongass are grouped together as one tribe, the Tongass) Tongass

HAIDAS

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| 1. Kaigani | 1. Kasaan |
| | 2. Sukkwan |
| | 3. Hawkan |
| | 4. Klinkwan |
| | 5. Koianglas |

At the present time the Tlingit and Haida Indians live in a number of native villages which are almost entirely Indian, but some live in large communities in principal cities of Alaska. The following are the names of the modern communities where the Indians of the Tlingit tribes live: 1. *Yakutat* tribe: Yakutat (located at the same place as the original village); 2. *Chilkat-Chilkoot* tribe: (a) Klukwan (located at the same place as the original village), (b) Haines; 3. *Huna* tribe: Hoonah (located at the same place as the original village of Huna); 4. *Auk* tribe: Juneau; 5. *Taku-Sumdrum* tribe: Douglas; 6. *Hutsnuwu* tribe: Angoon (located at the same place as the original village); 7. *Sitka* tribe: Sitka (located at the same place as the original village); 8. *Kake* tribe: Kake (located at the same place as the original village); 9. *Kuiu* tribe: none; 10. *Stikine* tribe: Wrangell (located at the same place as the original village); 11. *Henry* tribe: Klawak (located at the same place as the original village); 12. *Sanya* tribe: Ketchikan; 13. *Tongass* tribe: Saxman.

The Haidas now live in Hydaburg.

Yakutat, Klukwan, Hoonah, Angoon, Kake, Klawak, Saxman, and Hydaburg are the native villages.

A map introduced in evidence as plaintiffs' exhibit 169 and showing the location of Tlingit and Haida villages from 1867 to 1884 and the location of their modern villages is reproduced herein.

26. The Kuiu is no longer in existence as a tribe. It disintegrated around 1890, some members of the tribe moving to Klawak, others to Kake, and others to Wrangell.

